



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/26/2015
Time: 03:00 PM
Location: 308
Committee: House Finance

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: HB 1268, HD1 RELATING TO WORKERS' COMPENSATION.

Purpose of Bill: Requires injured public employees who are eligible to take part in an employer's return to work program do so as a prerequisite to vocational rehabilitation benefits. (HB1268 HD1)

Department's Position:

The Department of Education (Department) supports H.B. 1268, H.D. 1. The bill supports the Department's return to work program which provides eligible injured Department employees, who are unable to return to their usual and customary duties due to injury or illness, a cost-effective opportunity for temporary duty or placement to another suitable position.

DAVID Y. IGE
GOVERNOR



JAMES K. NISHIMOTO
DIRECTOR

RANDY BALDEMOR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

February 25, 2015

TESTIMONY TO THE
HOUSE COMMITTEE ON FINANCE

For Hearing on Thursday, February 26, 2015
3:00 p.m., Conference Room 308

BY

JAMES K. NISHIMOTO
DIRECTOR

House Bill No. 1268, H.D. 1
Relating to Workers' Compensation

WRITTEN TESTIMONY ONLY

CHAIRPERSON SYLVIA LUKE AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE:

Thank you for the opportunity to testify on H.B. 1268, H.D. 1.

The purpose of H.B. 1268, H.D. 1, is to require injured public employees who are eligible to take part in an employer's return to work program do so as a prerequisite to vocational rehabilitation benefits.

The Department of Human Resources Development ("DHRD") has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds. In that regard, DHRD **strongly supports** this bill.

First, this measure recognizes one of the central tenets of workers' compensation claims handling, which is to return injured employees to work as soon as possible in a cost-effective manner. The timetable for an employee to return to work following an injury or illness is inherently difficult to predict due to myriad interrelated factors, including the nature and severity of the injury, the overall health of the employee, the treatment regimen of the attending physician, and the response of the employee to the

treatment. However, the benefits of a prompt return, whether to temporary light duty or permanent alternate employment, are well-recognized, including: employees remain physically conditioned and maintain their employment skills; employees psychologically maintain their identity as employees and are less likely to become clinically depressed; employees continue their routine of getting up in the morning and going to work; and employers mitigate their costs for temporary disability wage loss replacement benefits.

Second, this measure supports and codifies the State's existing policy and practice of returning injured employees to work via DHRD's Return to Work Priority Program ("RTWPP"), which is administered by a Vocational Rehabilitation Specialist who is also a Certified Rehabilitation Counselor. The RTWPP was promulgated pursuant to Administrative Directive 94-02, which expresses the State's policy that each department head shall give injured and disabled State employees priority consideration in returning to employment. Under the RTWPP, employees who are medically cleared are returned to temporary light duty work while they recover from their injury. Subsequently, if their work injury permanently precludes them from returning to their usual and customary employment, the RTWPP seeks permanent alternate employment within the State—with the injured employee retaining pay and having priority over all other applicants to vacant positions for which they are qualified and are within their geographical preferences. If a return to employment within the State is not successful during the RTWPP eligibility period, the employee is terminated. However, the State will continue to assist with job search efforts through other provisions of the law, which include private vocational rehabilitation to seek other suitable gainful employment unless the employee decides to retire. This RTWPP eligibility period has the added benefit of giving the employee's department a timetable for the anticipated vacancy and allow it to plan recruitment efforts. Once the position is vacated, the department can then proceed with hiring someone else who is able to perform the work required of the position.

Third, by making the RTWPP a prerequisite to private vocational rehabilitation, this bill will clarify the RTWPP's relationship to our overall vocational rehabilitation obligations under Chapter 386, HRS. Since the RTWPP was designed to address the

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

850 SOUTH KING STREET, 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

February 26, 2015

The Honorable Sylvia Luke, Chair
and Members of the Committee
on Finance
The House of Representatives
State Capitol, Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Luke and Members of the Committee:

SUBJECT: House Bill No. 1268, HD1
Relating to Workers' Compensation

The purpose of H.B. 1268, HD1, is to limit vocational rehabilitation services under Hawaii Revised Statutes (HRS) Section 386-25 to those public employees who have participated in and completed their respective public employer's return to work program and limit vocational rehabilitation to those employees who have not retired from the employer with whom they sustained their work injury.

The City and County of Honolulu, Department of Human Resources, supports H.B. 1268, HD1. The revisions to HRS Section 386-25 proposed by the measure will provide clarification regarding eligibility for vocational rehabilitation benefits. At the same time, H.B. 1268, HD1, will increase the effectiveness of a public employer's return to work program while also providing an injured public employee the opportunity to continue working with his or her current employer.

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolee C. Kubo", is written over a faint, larger version of the same signature.

Carolee C. Kubo
Director



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Finance
Thursday, February 26, 2015 at 3:00 p.m.

by
Jan Gouveia
Vice President for Administration
University of Hawai'i

HB 1268 HD1 – RELATING TO WORKERS' COMPENSATION

Chair Luke, Vice Chair Nishimoto, and Members of the Finance Committee:

I am respectfully submitting written testimony on behalf of the University of Hawai'i in support of House Bill 1268 HD1 – Relating to Workers' Compensation – which proposes that vocational rehabilitation benefits will not be available to employees who retire from their employer with whom they sustained their work injury and requires all eligible injured public employees to participate in the employer's return to work program as a prerequisite to vocational rehabilitation benefits.

The University of Hawai'i supports this bill as it will reduce vocational rehabilitation benefit costs related to retired employees. It will also reduce costs by requiring injured employees to seek alternative positions with the employer prior to being eligible for vocational rehabilitation benefits.

Thank you for the opportunity to testify on this bill.

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR



ELAINE N. YOUNG
ACTING DIRECTOR

LATE

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.labor.hawaii.gov
Phone: (808) 586-8844 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

February 25, 2015

To: The Honorable Sylvia Luke, Chair,
The Honorable Scott Y. Nishimoto, Vice Chair, and
Members of the House Committee on Finance

Date: Thursday, February 26, 2015
Time: 3:00 p.m.
Place: Conference Room 308, State Capitol

From: Elaine N. Young, Acting Director
Department of Labor and Industrial Relations (DLIR)

Re: H.B. No. 1268 H.D. 1 Relating to Workers' Compensation

I. OVERVIEW OF PROPOSED LEGISLATION

HB1268 HD1 proposes to amend section 386-25(a), Hawaii Revised Statutes (HRS), to exclude injured employees who have retired from the employer with whom they sustained their work injury from vocational rehabilitation (VR) services.

The proposed amendment also requires employees of public employers as defined in section 76-11, HRS, who are eligible for their respective public employer's return to work program, including temporary light duty placement efforts, to participate in and complete the return to work program as a prerequisite to VR benefits under section 386-25(a), HRS.

The department supports the intent of this measure with comments.

II. CURRENT LAW

Chapter 386-25, HRS, provides rules for an injured employee to enroll in a vocational rehabilitation program to assist the injured employee to return to suitable gainful employment in the active labor force as quickly as possible in a cost-effective manner. Injured employees who retire from their job of injury may enroll in VR services if they cannot return to the same type of work and are still looking for other employment. The Department of Human Resources Development (DHRD) and the City and County of Honolulu (City) currently have a

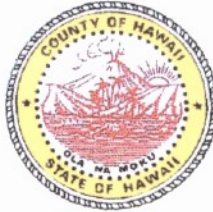
return to work program for the State and City workers injured on the job, however, nothing in the current VR statutes or rules prevent State and City workers from self-enrolling in a VR program outside of the DHRD and City return to work programs.

III. COMMENTS ON THE HOUSE BILL

The Department supports the intent of this measure with comments.

The department questions whether the provision to disqualify employees from VR if they have retired from the employer with whom they sustained their work injury applies to all employees, or, as the bill's preamble suggests, applies only to employees of public employers. The department notes that public employee's rights to VR benefits may not end upon the injured employee's retirement.

The department is in accord with the requirement that injured public employees must participate in and complete their return to work program as a requisite to VR benefits as this would ensure injured employees are given the opportunity to return to government service through the return to work program before self-enrolling in a VR program.



LATE

County of Hawai'i
Department of Human Resources

Aupuni Center * 101 Pauahi Street, Suite 2 * Hilo, Hawai'i 96720 * (808) 961-8361 * Fax (808) 961-8617
Jobs Information: Job Hotline (808) 961-8618 e-mail: jobs@co.hawaii.hi.us

February 25, 2015

The Honorable Sylvia Luke, Chairperson
And Members of the Finance Committee
House of Representatives
State Capitol
Honolulu, HI 96813

Dear Chairperson Luke Members of the Committee:

Re: House Bill No. 1268, H.D. 1, Relating to Workers' Compensation

I am Sharon Toriano, the Director of Human Resources of the County of Hawai'i. I am testifying in support of H.B. 1268, H.D. 1.

The purpose of H.B. No. 1268, H.D. 1 is to require injured public sector employees who are eligible to take part in an employer's return to work program be required to do so as a prerequisite to vocational rehabilitation benefits.

The County of Hawai'i, Department of Human Resources supports this bill.

One of the primary functions of the Hawai'i County self-insured workers' compensation program is to return injured employees to work as soon as possible in a cost effective manner. To this end, we have a fiduciary responsibility to the taxpayer to ensure that we are judiciously managing claims, while providing injured employee with all remedies mandated in Chapter 386 HRS.

One of the challenges we face in our claims management is coordinating early return to either light/modified work, or in the case of permanent impairment, return to usual and customary work. In July of 2004, the County of Hawai'i implemented a Return to Work Program which facilitates injured employee job placement, while maintaining injured employee's wages at the time of the injury. While the program has proved to be successful in many instances, we have had some experiences in which employees have opted out of our Return to Work Program, only to request and be granted vocational rehabilitation benefits either before or after retiring from service.

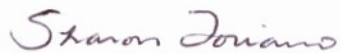
H.B. No. 1268, H.D.1
February 25, 2015
Page 2

By making participation in the employer Return to Work Program a prerequisite to vocational rehabilitation, taxpayers will be spared the unnecessary cost of private vocational rehabilitation in favor of employer sponsored programs.

We strongly support and respectfully request and urge the Committee to pass this bill.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Toriano".

Sharon Toriano
Director of Human Resources